

**FOSTER HOME
LICENSING****Selection**

When a prospective applicant expresses an interest in becoming a foster parent, prior to giving the applicant an application, the agency must document that the following conditions have been met:

- The applicant expresses a willingness to provide care for the types of children served by the agency and/or the related child in the applicant's care.
- The person has received the required orientation; see FOM 922 for the orientation requirements.

After the above conditions have been met by the prospective applicant, the agency must give the applicant an application along with a copy of the following material:

- A copy of Public Act 116, Child Care Organization Licensing Act.
- Administrative Rules for Foster Homes (effective 01/01/2001).
- Administrative Rules for Child Placing Agencies (effective 01/01/2001).
- Good moral character rules.
- Child protection law.
- The Children's Ombudsman's Act information pamphlet.
- The agency's program statement; see FOM 922.
- The agency's foster care services policies.
- The agency's foster parent training requirements.

Prior to beginning the foster family home study, the prospective applicant must complete, sign and return the BCAL-3889, The Children's Foster Home Licensing Application. In a two caregiver home, both caregivers must sign the application.

Fingerprinting

The fingerprinting of applicants for foster home licensing and adoption is required. Also, the licensed child placing agency working with a foster home license or adoptive applicant must conduct a check for substantiated child abuse or neglect in every state where the applicant or any adult household member has lived in the five years preceding application. Statutory changes (an amendment to the Child Care Organizations Act, Public Act 116 of 1973) were made to comply with federal requirements in the “Adam Walsh Child Protection & Safety Act (Public Act 218 of 2007).

Electronic fingerprinting completed through a placement agency foster care provider are analyzed, transmitted to BCAL and then stored on a Michigan State Police (MSP) database. A summary of the results are forwarded to the certifying agency.

Payment for Fingerprinting

Payment will be made by DHS for all foster home applicants, licensees and foster child adoption applicants through a contract billing system.

Evaluating Fingerprinting Results

Child placing agencies will continue to apply the good moral character process to the conviction information received from both the MSP and the FBI clearances; see FOM 722-03, Good Moral Character Offenses.

Frequently, clearances will come to the child placing agency even if the Michigan State Police/Federal Bureau of Investigation does not have conviction data available to provide. In the case of a non-specified crime charge, the child placing agency will interview the applicant/licensee about the charge and describe the information gathered in the initial or renewal evaluation. However, the child placing agency is not required to research the charge beyond that interview.

In the case of specified crimes (such as good moral character offenses), the agency must research the outcome of the charge beyond the statement of the applicant/licensee and prepare either an administrative review team (ART) summary recommending licensure or a denial of issuance/refusal to renew disciplinary action recommendation.

If there is a Michigan arrest information on an FBI clearance that does not match information on the Michigan clearance, you may consider the Michigan information to be more accurate.

Out-of-State Central Registry Checks

A licensed child placing agency working with an adoptive or foster home license applicant must conduct a check for substantiated child abuse or neglect in every state where the applicant or any adult household member has lived in the five years preceding application.

The Child Welfare Information Gateway is a Web site maintained by the U.S. Department of Health and Human Services. In alphabetical order, this site provides a list of the department responsible for the Children's Protective Services (CPS) program information in every state and U.S. territory. This site displays the name, address, phone number, fax number and email address of the state liaison officer.

When working on an out-of-state CPS clearance, the child placing agency worker must contact the office of the individual listed and request further information on the protocol for that state for providing a licensing or adoptive applicant CPS clearance. Different states have different processes. For example, Michigan requires a mailed, faxed or email-attached written request on the requestor's letterhead.

If the child placing agency worker receives information of any out-of-state protective services registry history on an applicant, s/he may not recommend licensure until or unless that history is resolved with expunction. Current DHS policy precludes licensing an individual who is listed on the Michigan central registry. This same policy now applies to out-of-state registry hits. In these instances, the certifying agency must recommend denial of licensure to Bureau of Children and Adult Licensing (BCAL).

Storage of Background Clearances

The signed BCAL-3889, The Children's Foster Home Licensing Application, is to be sent to Lansing with the signed BCAL-1326CW, Record Clearance Form, for each adult member of the household for processing. (Rule 400.12317) A copy of the BCAL-1326CW, with the attached fingerprinting and background clearance results, must be retained in the foster home licensing record. Internet Criminal History Access Tool (ICHAT) documents

from BCAL must be filed in the case record. ICHAT documents from BCAL are not to be destroyed.

Foster Parent Reporting Responsibilities

1973 PA 116, MCL 722.115i (1), requires foster parents to "...report to the department within 3 business days after he or she has been arraigned for 1 or more of the following crimes and within 3 business days after he or she knows or should reasonably know that a person over 18 years of age residing in the home has been arraigned for 1 or more of the following crimes:

- (a) Any felony.
 - (b) Any of the following misdemeanors:
 - (i) Criminal sexual conduct in the fourth degree or an attempt to commit criminal sexual conduct in the fourth degree.
 - (ii) Child abuse in the third or fourth degree or an attempt to commit child abuse in the third or fourth degree.
 - (iii) A misdemeanor involving cruelty, torture, or indecent exposure involving a child.
 - (iv) A misdemeanor violation of section 7410 of the public health code, 1978 PA 368, MCL 333.7410.
 - (v) A violation of section 115, 141a, 145a, 335a, or 359 of the Michigan penal code, 1931 PA 328, MCL 750.115, 750.141a, 750.145a, 750.335a, and 750.359, or a misdemeanor violation of section 81, 81a, or 145d of the Michigan penal code, 1931 PA 328, MCL 750.81, 750.81a, and 750.145d.
 - (vi) A misdemeanor violation of section 701 of the Michigan liquor control code of 1998, 1998 PA 58, MCL 436.1701.
 - (vii) Any misdemeanor that is a listed offense.
 - (c) A violation of a substantially similar law of another state, of a political subdivision of this state or another state, or of the United States.
- (2) A person who violates subsection (1) is guilty of a crime as follows:

- (a) If the person violates subsection (1) and the crime involved in the violation is a misdemeanor that is a listed offense or is a felony, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$2,000.00, or both.
- (b) If the person violates subsection (1) and the crime involved in the violation is a misdemeanor that is not a listed offense, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.
- (3) The department shall delete from the licensee's records all information relating to an arraignment required to be reported under this section if the department receives documentation that the person arraigned for the crime is subsequently not convicted of any crime after the completion of judicial proceedings resulting from that arraignment.
- (4) Not later than January 1, 2008, the department shall inform all persons currently issued a license to operate a foster family home or foster family group home and all applicants for a license to operate a foster family home or foster family group home of the requirement to report certain arraignments as required in this section and the penalty for not reporting those arraignments.
- (5) At the time the department issues a license to operate a foster family home or foster family group home under this act, the department shall notify the licensee of the requirement to report certain arraignments as required in this section and the penalty for not reporting those arraignments.

Note: The Bureau of Children and Adult Licensing will notify all currently licensed foster parents of this requirement.

Foster Family Home Study

The certifying agency is to make an initial thorough study of each foster family prior to placing a child with the family. The home study process must include visits at the residence of the foster home applicants for observations of, and interviews with, each member of the household.

The local office must complete the foster family (home) study (BCAL 3130) within 45 working days from the date the signed

application is received, unless the family withdraws the application or there is no assessed need.

All applicants at the time of initial licensure and at the time of renewal of their license, shall be asked to indicate their acceptance and interest in fostering a child of a different race. Enter this information in the BCAL-3130, home study or the annual evaluation of rule compliance.

Compliance with Licensing Requirements

The Foster Family Homes Technical Assistance Manual contains detailed instructions regarding the licensing process for original licenses, renewal of licenses, provisional licensing and licensing supervision. These procedures are to be followed when certifying a foster family home or foster family group home for licensure.

LICENSE VARIANCES

Upon recommendation of a child placing agency, BCAL may grant a variance to licensing rules or statutes regulating foster family homes or foster family group homes. The variance must assure that the health, care, safety, protection and supervision of a foster child is maintained. Granting of variances does not change the license status.

1997 P. A. 165, MCL 722.118b.(1), allows the foster care review board (FCRB) to recommend that a licensing variance be granted to allow siblings to remain or to be reunited in the same foster home. When DHS receives a report from the Foster Care Review Board recommending a variance, they will send a letter to the agency responsible for the foster home. The agency is to follow the procedures below and either support the recommendation or provide documentation as to the reasons why the worker does not believe the variance should be granted. Once a decision has been made, DHS will send a letter to the agency and the Foster Care Review Board with its decision.

Variances must be requested and approved prior to the agency allowing any action that would be in noncompliance with the administrative rules in BCAL Publication-10, Licensing Family Foster Homes or BCAL Publication-11, Child Placing Agency Rules.

The agency and the foster parent must review and agree with the request.

Procedure for Requesting Rule Variances

A written request for a variance to a foster family/group home licensing rule is to be prepared. A request for a variance will not be considered without a written request. The written request must contain the following:

- Name, address, license number of the foster home or enrollment.
- Identification of the foster home rule or rules for which the variance is needed.
- A description of the circumstances necessitating the variance to the rule(s).
- A description of the alternative to the requirements of the rule(s). The alternative must assure that the health, care, safety, protection, and supervision of all current and proposed members of the household will be met, including birth, adopted, relative, and foster children.
- A brief description of all children in the home including the family's biological and adopted children in addition to any foster children already placed in the home and the children for whom the request is being written. The description is to include the child's first name, date of birth, special needs and behaviors and permanency plan.
- Sleeping arrangements for all of the members of the household and the children for whom the variance request is being written, including bedroom square footage.
- The length of time for which the variance is needed.
- The letter must contain a supervisory signature.

If the variance is being requested at the time of initial licensure, the completed home study must also accompany the variance request. The request for a variance is to be based on the fact that all other rules are in compliance. This cannot be determined if the initial home study is not complete.

The request is to be forwarded to the Bureau of Children and Adult Licensing as follows:

Director, Bureau of Children and Adult Licensing

7109 W. Saginaw Highway, 2nd Floor
PO Box 30650
Lansing, MI 48909-8150
Fax (517) 335-6121

**BCAL Variance
Decision**

The BCAL letter which transmits the decision to approve or deny the variance will contain the following:

- A brief summary of the request.
- Identification of the rule in question.
- A statement that approves or denies the variance.
- The basis or criteria for making the decision.
- The duration of the variance.
- Additional conditions that must be met in order for the request to be approved, if any.

Copies of the letter will be sent to the requesting agency, the licensee(s)/applicant(s) and licensing consultant assigned to the agency requesting the variance. A copy will also be placed in the variance log in central office. The agency will be directed to place a copy in the foster home licensing file.

**Rules Compliance
Record**

The BCAL-3080, Rules Compliance Record, is to indicate compliance when a variance has been granted and the licensee complies with all additional conditions identified in the approval letter. During an agency onsite licensing investigation, the licensing consultant assigned to the agency may request to review the files where a variance has been granted to confirm that the agency/foster family has adhered to any conditions listed as necessary for approval.

**Placement
Agreement**

Rule 400.12311 of the administrative rules for licensing child placing agencies requires that the agency have a signed written agreement outlining the rights and responsibilities of both the agency and the foster parents regarding placements before initially

certifying a foster home for licensure. The DHS-1798, Agency/Foster Parent Agreement, has been designed to fulfill this requirement.

When it appears that the foster family can appropriately care for department children, a placement agreement is to be signed. The first agreement is a provisional agreement effective for six months; future agreements must be renewed at least annually. The agreement may be canceled at any time by either the foster parents or the local office.

The Agency/Foster Parent Agreement, is to be signed by the foster parents, a local office representative and the local office manager or designee. One copy is retained by the foster parents and one is placed in the family file. No placement is to be made prior to the signing of this agreement.

Placement Lists

Each foster family case file is to include a list of all children placed in the foster home, including name, age, agency or parent making the placement, date of placement, and reason for removal.
(R400.12317)